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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,909	12/22/2000	Lucy Broyles	4013-00100	4442
30652	7590	01/07/2005	EXAMINER	
CONLEY ROSE, P.C.			CARTER, MONICA SMITH	
5700 GRANITE PARKWAY, SUITE 330				
PLANO, TX 75024			ART UNIT	PAPER NUMBER
			3722	
DATE MAILED: 01/07/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action

Application No.

09/747,909

Applicant(s)

BROYLES, LUCY

Examiner

Monica S. Carter

Art Unit

3722

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): 35 U.S.C. 112, 2nd paragraph.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None.

Claim(s) objected to: None.

Claim(s) rejected: 17-20, 23 and 24.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☒ Other: See Continuation Sheet

Monica S. Carter
MONICA S. CARTER
PRIMARY EXAMINER

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Continuation of 10. Other: The examiner maintains the previously set forth rejections. Applicant argues that Alspaw et al. fail to disclose the limitations of Claim 17 which recite that only those pages that were previously selected are bound together. Applicant further argues that it is implicit that the pages deemed unsuitable for memorialization of the experience are not selected and remain loose pages which continue to form part of the partially consumed kit. The examiner asserts that such a limitation limiting the insertion of only selected pages has not been set forth in Claim 17. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. Regarding claim 20, applicant argues that an inherency rejection may only be used when the recited structure and/or method may only function in the claimed manner. The examiner disagrees with applicant's assertion. The theory of inherency may be used if the prior art fails to discuss the intended use but discloses an element that appears to have the ability to perform in the claimed manner. In this case, the display book of Alspaw includes text and pictures wherein the text would be read to a prereader (e.g., toddler), since the prereader would not be capable of reading the text of the pages to himself/herself..